

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

POLARIS IMAGES CORPORATION,

Plaintiff,

- against -

ASSOCIATED NEWSPAPERS (U.S.A.) LIMITED

Defendant.

Docket No. 1:18-cv-5115

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Polaris Images Corporation (“Polaris” or “Plaintiff”) by and through its undersigned counsel, as and for its Complaint against Defendant Associated Newspapers (U.S.A.) Limited, (“Associated” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of American former civil rights activist Rachel Dolezal. Accordingly, Polaris seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or are doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Polaris is an independent photo agency that represents photographers around the globe. Polaris has exclusive relationships with some of its photographers. Polaris has a place of business at 259 West 30th Street, 14th Floor, New York, New York 10001.

6. Upon information and belief, Associated is a foreign business corporation with a place of business at 51 Astor Place, 9th Floor, New York, New York 10003. Upon information and belief, Associated is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Associated has owned and operated a website at the URL: www.Metro.co.uk (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Rachel Dolezal who has an exclusive licensing agreement with Polaris own the copyright to a photograph of Rachel Dolezal (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Polaris is Rachel Dolezal’s exclusive licensing agent.

9. The Photograph was registered with the United States Copyright Office and was given Copyright Registration Number VA 2-092-613

B. Defendant’s Infringing Activities

10. Associated ran an article on the Website entitled *Outrage as infamous race-faker Rachel Dolezal is given her own Netflix documentary- which features her own son begging her to stop seeking publicity*. See <http://www.dailymail.co.uk/news/article-5478833/Netflix-release->

documentary-transracial-Rachel-Dolezal.html. The article prominently featured the Photograph. A true and correct copy of the article is attached hereto as Exhibit B.

11. Associated did not license the Photograph from Plaintiff for its article, nor did Associated have Plaintiff's permission or consent to publish the Photograph on its Website.

12. Associated has a history of using Polaris's photographs without permission. Polaris sued Associated for copyright infringement in February 2018. See *Polaris Images Corporation v. Associated Newspapers (U.S.A.) Limited 1:18-cv-01013-VM*

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST ASSOCIATED)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Associated infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Associated is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Associated have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's exclusive rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Associated be adjudged to have infringed upon Plaintiff's exclusive rights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
June 8, 2018

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